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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,002	12/27/2000	Fumito Takemoto	2091-0225P	3608
2292	7590	05/01/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			BRINICH, STEPHEN M	
			ART UNIT	PAPER NUMBER
			2625	

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,002

Applicant(s)

TAKEMOTO, FUMITO

Examiner

Stephen M. Brinich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 10, 14, & 18 are rejected under 35

U.S.C. 102(b) as being anticipated by Bar (US 5506946).

Re claims 1-3, Bar et al discloses (column 4, lines 27-44; column 5, lines 7-37; column 6, line 44 - column 7, line 10; column 10, lines 35-58; Figure 1) an image processing apparatus comprising a display means for image display, area specification means for specifying a first area having a desired color tone in a displayed image and a second area in the image or in another image, and conversion means for converting a color tone of desired area including the second area (and the border thereof) into the color tone of the first area.

Re claim 3, Bar et al further discloses (column 4, lines 27-28; column 10, lines 56-58) a computer implementation of this processing system (which inherently requires that the program run by the computer be provided on a computer-readable medium).

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Re claims 10, 14, & 18, Bar discloses (column 4, lines 27-44; column 5, lines 7-37; column 6, line 44 - column 7, line 10; column 10, lines 35-58; Figure 1) converting a color tone of desired area including the entirety of the second area.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-9, 12-13, & 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bar et al.

Bar et al discloses (Figures 1-2) the processing of an image containing a face (which is inherently in some shade of "skin tone").

Bar et al does not disclose expressly the processing of an image containing multiple faces or the selection of a face area as the first or second area to be processed.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to apply the Bar process to an image containing a plurality of faces and for the operator

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to select (Bar et al column 6, lines 45-48; column 10, lines 35-43) these areas for color processing.

The suggestion/motivation for doing so would have been to enable the Bar et al color processing to be carried out on, for example, a group portrait.

Therefore, it would have been obvious to use Bar et al to process an image containing multiple flesh-tone face areas to obtain the invention as specified in claims 8-9, 12-13, & 16-17.

5. Claims 7, 11, & 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bar et al in view of Matsumara (JP 07234933A).

Re claims 7, 11, & 15, Bar et al discloses (column 6, lines 52-61; column 7, lines 39-41) the determination of correlated (via look-up tables 4b) average color values in first and second selected areas. Bar et al does not explicitly disclose a method of determining this average, and in particular does not disclose the use of a histogram (which is inherently "cumulative", as a histogram is inherently a cumulative count of data values).

Matsumara (Abstract) discloses an example of the use of a histogram to determine an average color value.

Bar et al and Matsumara are combinable because they are from the field of color image processing.

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At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the histogram calculation of Matsumara to determine the average color value used by Bar et al.

The suggestion/motivation for doing so would have been to provide a calculation method for the average color value used by Bar et al.

Therefore, it would have been obvious to combine Bar with Matsumara to obtain the invention as specified in claims 7, 11, & 15.

6. Claims 7-9, 11-13, & 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bar et al in view of Allebach et al (US 5544284).

Re claims 7, 11, & 15, Bar et al discloses (column 6, lines 52-61; column 7, lines 39-41) the determination of correlated (via look-up tables 4b) average color values in first and second selected areas. Bar et al does not explicitly disclose a method of determining this average, and in particular does not disclose the use of a histogram (which is inherently "cumulative", as a histogram is inherently a cumulative count of data values).

Allebach et al (column 7, lines 58-62) discloses an example of the use of a histogram to determine an average color value.

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Bar et al and Allebach et al are combinable because they are from the field of color image processing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the histogram calculation of Allebach et al to determine the average color value used by Bar et al.

The suggestion/motivation for doing so would have been to provide a calculation method for the average color value used by Bar et al.

Therefore, it would have been obvious to combine Bar with Allebach et al to obtain the invention as specified in claims 7, 11, & 15.

Response to Arguments

7. Applicant's arguments filed 10/26/05 (accompanying the 10/26/05 Amendment entered in response to the Continuing Prosecution Application request filed 11/28/05) have been fully considered but they are not persuasive.

Re claims 1-3, Applicant argues (10/26/05 Remarks: page 9, line 18 - page 11, line 10) that the newly recited feature of "changing a color-tone of a desired area including the second area into the color-tone of the first area while continuously changing the color-tone at a border of the second area" defines over the art of record.

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However, as noted above, the changing of the color tone of the second area generally includes changing of the color tone at the border thereof, and is thus readable upon a recitation of changing the color tone at the border (without a recitation that only the border color tone is affected).

Conclusion

8. Any inquiry concerning the contents of this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430.

Any inquiry relating to the status of this application or proceeding or any inquiry of a general nature concerning application processing should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 703-308-4357.

The examiner can normally be reached on weekdays 7:00-4:30, alternate Fridays off.

The examiner's unit designation has been changed from "Art Unit 2624" to "Technology Division 2625" (as of March 20, 2006).

If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

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Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 571-273-8300 (as of July 15, 2005).

Hand-carried correspondence may be delivered to the Customer Service Window, located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314.



Stephen M Brinich
Examiner
Technology Division 2625

smb
April 28, 2006